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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,175	03/14/2000	DANIEL RICHARD SCHNEIDEWEND	RCA89037	9591

7590 02/28/2003

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EXAMINER

GRANT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 02/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/445,175

Applicant(s)

SCHNEIDEWEND ET AL.

Examiner

Christopher Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5-8 and 12-16 is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller (5,585,866) (provided by applicant) in view of Tsumura et al (Tsumura).

Considering claims 1 and 9, Miller discloses an apparatus for processing a first type of program having both audio and video content and a second type of program having audio-only content comprising:

a) a memory storing display information representing one or more images (icon, text, title, artist, record company name etc. col. 31, lines 4-46);

b) a control means (16, figure 1) in response to channel selector (via remote control) by the user for determining if an audio-video program is selected and displaying the audio-video program and for determining if an audio only program is selected (channels 41-46), and displaying an image (icon, text, title, artist etc., col. 31, lines 4-46) if the audio only program is selected (see all references to DMX in columns 29-31).

However, Miller fails to specifically disclose a memory storing display information representing an animated image as recited in the claim.

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Tsumura discloses an apparatus comprising a memory (6) for storing display information representing animated image and displaying an audio program with the animated image for the advantage of providing visual enjoyment with music to users. See abstract, col. 1, line 29-45 and col. 2, lines 3-21, 51-64.

Claims 2 and 10 are met by the combined systems of Miller and Tsumura, wherein Miller discloses that the program guide information includes the audio-only channels as illustrated in figures 43-47 and described in columns 29-31. Therefore, the control means determines the type of program by selecting any one of the audio only program from the screens in figure 43-47.

As for claims 3 and 11, the combined systems of Miller and Tsumura fail to specifically disclose displaying the program guide information along with the animated image as recited in the claims.

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Miller and Tsumura to include displaying the program guide information along with the animated image because it is typical to display additional information on a guide/general help screen to help or instruct the user to make better decisions.

Claim 4 is met by the combined systems of Miller and Tsumura, since moving images do not burn the phosphor or the display elements on a display screen/monitor (i.e. screen saver).

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***Allowable Subject Matter***

3. Claims 5-8 and 12-16 are allowed because the prior art fails to disclose or suggest an apparatus and corresponding method for processing an audio-video program and an audio only program and when an audio only program is selected, a control means in a first mode causes playing of the audio only program and displaying animation, and in second mode causes playing of the audio only program and displaying a static image as recited in the claims.

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tsujimoto discloses a system that provides multiple windows of audio-video programs with different ways of handling multiple audio signals without causing hearing confusion to the user.

Hasegawa discloses composing music to fit an image.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Grant whose telephone number is (703) 305 4755. The examiner can normally be reached on Monday-Friday 8:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9314 for regular communications and (703) 872 9314 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

A handwritten signature in cursive script, appearing to read "Christopher Grant".

Christopher Grant  
Primary Examiner  
Art Unit 2611

CG  
February 23, 2003